

1  
2  
3  
4 UNITED STATES DISTRICT COURT  
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
6 OAKLAND DIVISION  
7

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 vs.  
11

12 JOSE LUIS SANDOVAL,

13 Defendant.  
14

Case No: CR 01-40162-01 SBA

**ORDER DENYING MOTIONS  
FOR SENTENCE REDUCTION**

Dkt. 147, 158

15 Defendant Jose Luis Sandoval (“Defendant”) was sentenced to a term of 188 months  
16 in prison for Conspiracy to Distribute Methamphetamine, 21 U.S.C. § 846. See Dkt. 163-1,  
17 Ex. A. He filed two pro se motions for reduction of sentence pursuant to 18 U.S.C.  
18 § 3582(c)(2) and Guidelines Amendments 742 and 782, respectively. Dkt. 147, 158.  
19 Defendant is ineligible for a reduction under these amendments.

20 Regarding the first motion, Amendment 742 does not apply retroactively and  
21 therefore does not provide a basis for relief under section 3582(c)(2). See Dillon v. United  
22 States, 560 U.S. 817, 824 (2010) (requiring that the applicable amendment be “made  
23 retroactive pursuant to [28 U.S.C.] § 944(u)”); United States v. Mercado-Moreno, 869 F.3d  
24 942, 949 n.1 (9th Cir. 2017) (“§ 3582(c)(2) motions must be based on a retroactive  
25 Guidelines amendment” listed in U.S.S.G. § 1B1.10(d)); U.S.S.G. § 1B1.10(d) (excluding  
26 Amendment 742 from the list of covered amendments).

27 Regarding the second motion, Amendment 782 reduced the base offense level set  
28 forth in U.S.S.G. § 2D1.1—and the corresponding guideline range—for many drug-related

---

1 offenses. Having reviewed the Statement of Reasons, however, the Court finds that  
2 Defendant was sentenced as a career offender. The applicable guideline range was thus  
3 based on U.S.S.G. § 4B1.1, the provision regarding career offenders, not U.S.S.G.  
4 § 2D1.1.<sup>1</sup> “[R]etroactive amendments regarding sentences under the drug guidelines do not  
5 affect individuals who were sentenced as career offenders . . . .” United States v. Charles,  
6 749 F.3d 767, 770 (9th Cir. 2017).

7 Moreover, even if Defendant was sentenced under U.S.S.G. § 2D1.1, he would still  
8 be ineligible for a reduction. Had Amendment 782 been in effect at the time of sentencing,  
9 the base offense level would have been 36 (as opposed to 38), the adjusted offense level  
10 would have been 33, and the applicable guidelines range would have been 235 to 293  
11 months. Because the sentence imposed (i.e., 188 months) falls below the amended  
12 guideline range, a reduction under section 3582(c)(2) is foreclosed. See United States v.  
13 Davis, 739 F.3d 1222, 1224 (9th Cir. 2014) (“Section 1B1.10(b)(2)(A) provides that the  
14 court may not reduce a defendant’s term of imprisonment to a term that is less than the  
15 minimum of the amended guidelines range.”).

16 Accordingly, Defendant’s motions are DENIED. This Order terminates Dockets  
17 147 and 158.

18 IT IS SO ORDERED.

19 Dated: 02/26/2020

  
SAUNDRA BROWN ARMSTRONG  
Senior United States District Judge

20  
21  
22  
23  
24  
25  
26  
27  
28 

---

<sup>1</sup> By application of U.S.S.G. § 4B1.1, the base offense level is 37, the adjusted offense level is 34, and the resulting guidelines range is 262 to 327 months.